

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

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|---|---|--------------------------------------|
| DePuy Mitek Inc., |) | |
| a Massachusetts Corporation |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 04-12457 PBS |
| |) | |
| Arthrex Inc., |) | |
| a Delaware Corporation, and |) | |
| |) | |
| Pearsalls Limited, |) | |
| a Private Limited Company of the |) | |
| United Kingdom, |) | |
| |) | |
| Defendant. |) | |

**DePuy Mitek, Inc.'s Renewed Motion For Judgment As A Matter Of
Law Under FED. R. CIV. P. 50 And Motion For A New Trial**

During trial, Plaintiff DePuy Mitek, Inc. moved this Court for judgment as a matter of law under FED. R. CIV. P. 50 (a)(2) that Defendants Arthrex, Inc.'s and Pearsalls, Ltd.'s infringe claims 1, 2, 8, 9, and 12 of Mitek's U.S. Patent 5,314,446. The Court denied Mitek's motion. Mitek hereby renews its motion under FED. R. CIV. P. 50(b) for a judgment as a matter of law that Arthrex and Pearsalls infringe claims 1, 2, 8, 9, and 12 of the 446 Patent. In the alternative, Mitek moves the Court for a new trial under FED. R. CIV. P. 50(b) and 59, on the issue of whether Arthrex and Pearsalls infringe claims 1, 2, 8, 9, and 12 of the 446 Patent. Mitek has conferred with counsel for Defendants, and the parties have agreed to an extension of time for Mitek to file its brief in support of this motion. The parties have agreed to extend the date for filing Mitek's supporting brief to September 27, 2007, and Mitek has filed an unopposed motion requesting the extension.

Dated: August 28, 2007

/s/ Erich M. Falke

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CERTIFICATE OF SERVICE

I certify that I am counsel for DePuy Mitek, Inc. and that true and correct copies of:

**DePuy Mitek, Inc.'s Renewed Motion For Judgment As A Matter Of
Law Under FED. R. CIV. P. 50 And Motion For A New Trial**

were served on counsel for Defendants Arthrex, Inc. and Pearsalls Ltd. on this date via the Court's e-mail notification with the following recipients being listed as filing users for Defendants:

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Dated: August 28, 2007

/s/ Erich M. Falke
Erich M. Falke